



FLORIDA DEPARTMENT OF Environmental Protection

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September 20, 2024

Danielle Hopkins
Florida Stormwater Association
Executive Director
PO Box 13688
Tallahassee, FL 32317

RE: Response to Comments on the Proposed State Bacteria TMDLs for the Everglades West Coast Basin

Dear Ms. Hopkins:

Thank you for your comments regarding the revised draft Fecal Indicator Bacteria (FIB) total maximum daily loads (TMDLs) for the Everglades West Coast basin. The department has reviewed the Florida Stormwater Association comments provided on the proposed FIB TMDLs for the Everglades West Coast Basin which were submitted on April 8, 2024. We have prepared responses to each of your comments as itemized below.

In the order in which they were presented, your comments are provided below, and our responses immediately follow.

FSA Comment 1:

Unlike TMDL development and related water quality improvement programs for nutrients, FIB TMDLs (and subsequent implementation strategies that a permit holder may undertake) are much more complex: There is a much lower correlation between bacterial best management practices (BMPs) and actual FIB reductions; it is much more difficult and expensive to determine the actual source of FIB; and, it is much more difficult to accurately allocate pollutant reduction responsibilities among various stakeholders.

FDEP Response 1:

The department doesn't foresee that moving forward with the proposed approach to adopt FIB TMDLs will influence TMDL implementation. The adoption of a TMDL does not change the steps necessary for identifying the source type, mode of transport, origin location, and remediation of the cause of loading. Information to guide stakeholders in the implementation of FIB TMDLs is available in the 2018 DEP document entitled, **Restoring Bacteria-Impaired Waters: A Toolkit to Help Local Stakeholders Identify and Eliminate Potential Pathogen Problems.**

FSA Comment 2:

As stated during the April 4, 2024, public meeting, MS4 permittees will be required to provide resources to achieve compliance. However, an answer as to how other sources not associated with a permit will be held accountable for meeting TMDL requirements was left unanswered. It is neither fair nor equitable to effectively designate a MS4 permittee as the lead entity responsible for TMDL compliance simply because

a FIB impaired water falls within the permittee's boundary, especially when you consider that stormwater discharges are unlikely to be the origin of FIB. We would request that all sources be held accountable for compliance, not just MS4 entities and that a lead entity be assigned based on the most likely origin of the greatest contributor of FIB. We also ask that FDEP develop a mechanism to control these nonpoint pollution sources for this and all future TMDLs being developed in the State.

FDEP Response 2:

Thank you for the comment and suggestion. The department recognizes the complexities of implementing FIB TMDLs: however, at this stage in the process the focus is on TMDL development. We look forward to working with FSA and its members to develop a fair and equitable strategy to implement FIB TMDLs.

FSA Comment 3:

Due to the cost and uncertainty surrounding the issue of bacterial TMDLs (especially for municipal separate storm sewer systems [MS4s]) and the implementation thereof, FSA urges the Department to take a measured, methodical approach to TMDL adoption and implementation. We urge FDEP to take an active role in identifying the sources of FIB and the relative responsibility of implementing FIB-related activities prior to assigning stormwater entities specific responsibilities for waters not meeting FIB standards. The process to implement FIB TMDLs should give the Department, stakeholders, and the public certainty that the bacteria problem is being responsibly addressed in an equitable manner.

FDEP Response 3:

The Department acknowledges that NPDES stormwater is assigned Wasteload Allocations while other non-point discharges are assigned a Load Allocation. MS4 permittees are only responsible for reducing/eliminating sources of bacteria pollution in stormwater discharges from the stormwater infrastructure they own/operate in accordance with their MS4 permit. The LA includes loading from stormwater discharges regulated by DEP and the water management districts that are not part of the NPDES stormwater program.

FSA Comment 4:

We feel it important to remember that (in most cases) MS4s do not generate bacterial pollution and do not have operational control over other sources. The department's FIB policy should not rely on nor require that the MS4 bear a disproportionate responsibility for determining sources of bacterial contamination when there are natural sources and other permittees (e.g., domestic wastewater collection systems and sanitary sewer overflows, failed septic systems, restaurants, aquaculture, confined animal feeding operations) that may be entirely responsible for the elevated bacteria levels.

FDEP Response 4:

The Department acknowledges that NPDES stormwater is assigned Wasteload Allocations while other non-point discharges are assigned a Load Allocation. MS4 permittees are only responsible for reducing/eliminating sources of bacteria pollution in stormwater discharges from the stormwater infrastructure they own/operate in accordance with their MS4 permit. The LA includes loading from stormwater discharges regulated by DEP and the water management districts that are not part of the NPDES stormwater program.

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FSA Comment 5:

As FDEP moves forward with this effort, and given the potential extensive ramifications to MS4 permittees, we are very willing to meet further with FDEP (and other representative groups, as needed) to provide additional input on the approach that will promote TMDL implementation, FIB reductions, and fairly assign responsibility to MS4s, when appropriate.

FDEP Response 5:

We greatly appreciate the FSA involvement in this effort and look forward to continued dialogue to implement FIB TMDLs with the association and the members it serves.

Thank you for your time and effort in the further review of the TMDL report for Everglades West Coast Basin. If you have any questions about our comments, please contact me at 850-245-8469 or Kevin.Odonnell@FloridaDEP.gov.

Sincerely,

Kevin J. O'Donnell

Kevin O'Donnell, Program Administrator
Watershed Evaluation and TMDL Program

cc: Kevin Coyne, Association Management Professionals
Ken Weaver, FDEP
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